STATE WATER RESOURCES CONTROL BOARD BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES SEPTEMBER 15, 2020

ITEM 6

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE CORE WATER QUALITY REGULATORY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200 AND 2200.6 OF THE CALIFORNIA CODE OF REGULATIONS

DISCUSSION

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board, the funds from which are deposited in the Waste Discharge Permit Fund (WDPF). Water Code Section 13260 requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the state. Water Code Section 13260 further requires the State Water Board to adjust the annual fees each fiscal year to conform to the revenue levels set forth in the Budget Act. Staff review all WDPF programs' fees on an annual basis and hold several stakeholder meetings throughout the year that coincide with the various iterations of the Governor's Budget.

Waste Discharge Permit Fund Budget Cost Drivers

Attachment 1: WDPF Budget Cost Drivers shows the FY 2020-21 projected revenue based on the existing fee schedule, the budget for FY 2020-21, and the cost drivers, including staff cost, program adjustments, and budget change proposal (BCP) adjustments. As column G indicates, even with estimated furlough salary savings, the WDPF, excluding Cannabis, will need to generate an additional estimated \$9.64 million in revenue to meet budgetary expenditures in FY 2020-21. This increase is mainly attributable to increased state operational costs and BCPs.

Below are the options staff considered for meeting budgetary expenditures in FY 2020-21. All options shown below include the following: 1) FY 2020-21 includes an estimated expenditure reduction associated with furlough salary savings, 2) FY 2021-22 includes the estimated furlough salary savings with no increase in salaries and a general 2.5 percent increase in all other costs, and 3) FY 2022-23 removes the estimated furlough salary savings and adds in a 3 percent salary increase and a general 2.5 percent increase in all other costs.

The Budget Act included the Continuation of Cannabis Program BCP which allows for the continued funding of \$10.5 million for the Cannabis program. Despite the continued funding, the Cannabis program has been operating under a revenue shortfall for the past two years and is currently managing vacancies to reduce expenditures. Shown below are the Cannabis program vacancies that will need to be held to mitigate the program's revenue shortfall in FY 2020-21. In addition, the WDPF will need to hold 20 vacancies that are attributable to the foundational program and other redirected costs resulting from the revenue shortfall in the Cannabis program, as shown by the Foundation/Redirect Shortfall category.

Cannabis-Related Vacancies	Positions
Cannabis Program	35
Foundation/Redirect Shortfall	20
Total Cannabis-Related Vacancies Required	55
Approximate Current Vacancies	50
New WDPF Vacancies to Hold Open	5

Status Quo (Excluding Cannabis)

If no fee increases are adopted for FY 2020-21 and fees are kept at their current FY 2019-20 levels, all programs except Land Disposal will require increases in FY 2021-22 of approximately 4 to 14 percent and WDPF programs would need to hold open a total of 42 new vacancies in FY 2020-21.

Program	FY 20-21	FY 21-22	FY 22-23
WDR	-	11.8%	7.3%
Land Disposal	-	1	7.3%
WQC	-	11.1%	7.3%
Storm Water	-	8.6%	7.3%
NPDES	-	13.5%	7.3%
CAF	-	4.4%	7.3%
Ag Lands	-	6.7%	7.3%
WDPF Avg	0%	9.6%	7.3%

Additional Revenue Generated: \$0

WDPF Vacancies	Positions
Additional Program Shortfall	42

Option A: Budget Augmentations (Excluding Cannabis)

If fees are increased to cover the BCPs, approximately half the required revenue will be collected in FY 2020-21 with the remaining portion deferred to FY 2021-22, and all programs except Land Disposal will require a fee increase in FY 2021-22 of approximately 4 to 11 percent. This option would generate sufficient revenue to support expenditure increases related to the BCPs and would require WDPF programs to hold open a total of 18 new vacancies in FY 2020-21.

Program	FY 20-21	FY 21-22	FY 22-23
WDR	5.6%	5.9%	7.3%
Land Disposal	-	-	7.3%
WQC	0.8%	11.1%	7.3%
Storm Water	2.3%	5.9%	7.3%
NPDES	5.5%	7.6%	7.3%
CAF	0.3%	4.4%	7.3%
Ag Lands	0.5%	6.7%	7.3%
WDPF Avg	3.7%	6.3%	7.3%

Additional Revenue Generated: \$5,389,000

WDPF Vacancies	Positions
Additional Program Shortfall	18

Option B: Budget Augmentations and Partial Need (Excluding Cannabis)

If fees are increased by approximately 75 percent of the required amount for most programs in FY 2020-21 with the remaining portion deferred to FY 2021-22, all programs except Land Disposal will require a fee increase in FY 2021-22 of approximately 2 to 6 percent. This option would generate sufficient revenue to support expenditure increases related to the BCPs plus a portion of the projected revenue shortfall and would require WDPF programs to hold open a total of 10 new vacancies in FY 2020-21.

Program	FY 20-21	FY 21-22	FY 22-23
WDR	8.5%	2.9%	7.3%
Land Disposal	1	-	7.3%
WQC	6.0%	5.6%	7.3%
Storm Water	5.3%	3.0%	7.3%
NPDES	9.3%	3.8%	7.3%
CAF	1.4%	2.2%	7.3%
Ag Lands	3.5%	3.4%	7.3%
WDPF Avg	5.6%	3.2%	7.3%

Additional Revenue Generated: \$7,211,264

WDPF Vacancies	Positions
Additional Program Shortfall	10

Option C: Full Budgetary Expenditures (Excluding Cannabis)

If fees are increased by the full required amount in FY 2020-21, all programs except Land Disposal will require an estimated small fee increase in FY 2021-22 of approximately 2.5 percent. This option would not require WDPF programs to hold open any vacancies.

Program	FY 20-21	FY 21-22	FY 22-23
WDR	9.0%	2.5%	7.3%
Land Disposal	-	-	7.3%
WQC	8.4%	2.5%	7.3%
Storm Water	5.9%	2.5%	7.3%
NPDES	10.8%	2.5%	7.3%
CAF	1.9%	2.5%	7.3%
Ag Lands	4.1%	2.5%	7.3%
WDPF Avg	6.9%	2.5%	7.3%

Additional Revenue Generated: \$9,635,404

WDPF Vacancies	Positions
Additional Program Shortfall	0

Proposed Fee Schedule Changes

Staff is proposing to increase fees for most WDPF programs as specified in Option C as it will allow program staff to continue their work in meeting the Water Boards' mission without having to hold any additional positions vacant.

Waste Discharge Requirement (WDR)

The WDR program budget for FY 2020-21 is \$36.8 million and projected revenue is \$33.7 million. The WDR program needs to generate an additional \$3.1 million in revenue to meet the FY 2020-21 budget which translates to an average 9.0 percent increase to all WDR fee categories. All applicable surcharges will remain unchanged for FY 2020-21.

Water Quality Certification (WQC)

The WQC program budget for FY 2020-21 is \$15.3 million and projected revenue is \$14.1 million. The WQC program needs to generate an additional \$1.2 million in revenue to meet the FY 2020-21 budget which translates to an average 8.4 percent increase to all WQC fee categories except Category (H). Staff is proposing no increases for Category (H) fees for FY 2020-21 to allow for the program to stabilize since the fee was implemented in FY 2019-20. Staff will continue to monitor the program revenue and expenditures.

 Staff is proposing to move Beach Nourishment projects from the Fill and Excavation fee category (Category A) and In-Stream Gravel Mining projects from the Dredging Discharges fee category (Category B) to Category C, currently set aside for Sand Mining discharges. Staff is proposing to keep the application fee the same but lower the annual fee from \$975 to \$689. These proposed changes will have a negligible impact to the rest of the WQC programs' fee payers due to the combined low number of projects.

Storm Water

The Storm Water program budget for FY 2020-21 is \$33.5 million and projected revenue is \$31.6 million. The Storm Water program needs to generate an additional \$1.9 million in revenue to meet the FY 2020-21 budget which translates to an average 5.9 percent increase to all Storm Water fee categories. The No Exposure Certification fee will remain unchanged.

NPDES

The NPDES (not including Storm Water) program budget for FY 2020-21 is \$36.0 million and projected revenue is \$32.5 million. The NPDES program needs to generate an additional \$3.5 million in revenue to meet the FY 2020-21 budget which translates to an average 10.8 percent increase to all NPDES fee categories. All applicable surcharges will remain unchanged for FY 2020-21.

Confined Animal Facilities (CAF)

The CAF program budget for FY 2020-21 is \$5.7 million and projected revenue is \$5.6 million. The CAF program needs to generate an additional \$103,000 in revenue to meet the FY 2020-21 budget which translates to an average 1.9 percent increase to all CAF fee categories.

• Staff is also proposing to make a minor change to the "Hogs – Swine (>55 Pounds)" category to change the weight limit from greater than 55 pounds to greater than or equal to 55 pounds.

Agricultural (Ag) Lands

The Ag Lands program budget for FY 2020-21 is \$8.2 million and projected revenue is \$7.8 million. The Ag Lands program needs to generate an additional \$324,000 in revenue to meet the FY 2020-21 budget which translates to an average 4.1 percent increase.

Land Disposal (No Change)

The Land Disposal program is projected to generate sufficient revenue to meet budgetary expenditures, therefore, staff is proposing no fee increase for FY 2020-21.

COVID-19 Emergency

To address the negative effects the COVID-19 emergency had on fee payers' ability to pay their invoices, staff extended invoice due dates from 30 to 90 days, allowed monthly payments, delayed late notice mailings and temporarily suspended sending current year delinquent accounts to collections. Staff will continue to monitor the situation for FY 2020-21 and make adjustments as needed.

POLICY ISSUE

Should the State Water Board adopt a resolution amending the annual fee schedules as proposed by staff?

FISCAL IMPACT

The FY 2020-21 Budget Act includes expenditure authority for the Waste Discharge Permit Fund of \$175.5 million. The proposed fee schedule changes will ensure the projected revenue for the WDPF meets the FY 2020-21 budget expenditure authority.

REGIONAL BOARD IMPACT

The proposed fee schedule changes would require the Regional Water Boards to manage existing vacancies with no further staffing reduction.

STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt emergency regulations to change the current annual fee schedules per Option C as proposed by staff.